

**Local Public Recreation Facilities Fund
Recreation Passport Grant Program
Response to Comments**

January 18, 2011

A listing and response to all public comments addressing specific issues with the
proposed grant program



Department of
NATURAL RESOURCES
and ENVIRONMENT

Introduction

This document lists all public comments that addressed specific issues that were received in the first round of public comment on the draft grant program. Comments that were unrelated to the grant program, that showed general support, or that made minor grammatical changes are not listed. The Department's response to comments is listed below and changes have been made to the draft program to address multiple concerns and suggestions raised in the public comment period.

A second round of public comment is being accepted until February 11th, 2011. Please e-mail comments to cherryj3@michigan.gov.

Applicant Eligibility

My only comment under "Applicant Eligibility", I see the two items which makes an agency eligible for funding. I think one of the most important eligibility items is that any agency applying must have an approved (by the DNR) master plan (the way it currently reads under "Applicant Eligibility", that is not a criterion). If I am missing that I am sorry but I did not see that. I think it is (an approved master plan) really important and should be included.

Response: This is a very legitimate concern. However, one of the main focuses of these grants is to speed and simplify the application process. Removing the requirement for the recreation plan, based on feedback from MACPRO and MRPA seemed to be one of the primary methods to do so. The removal also increases the possible pool of possible applicants, particularly since many small municipalities may not find it a prudent financial investment to produce a recreation plan in order to be eligible for such a small grant. We attempt to mitigate the lost value of a recreation plan by requiring that the project be in the capital improvement plan.

I did not notice a reference to having an approved master plan as a justification for the project or a pre-requirement. This grant program shouldn't be any different in requiring this.

Response: Previous response clarifies the issue.

Project Eligibility and Obligations

Are on-road greenways an eligible project? We are building many of these in Detroit and they are great, accessible public recreational facilities, but it's unclear whether these are eligible and whether they would score well.

Response: There is nothing that currently restricts the use of funds for that type of project if there is a recreation value to the project.

1. Monies from the Natural Resources Trust Fund and/or recreational passport dollars need to be specifically earmarked for aquatic nuisance species eradication.

Response: Statute prohibits this use. It states, “The department of natural resources shall expend money from the local public recreation facilities fund, upon appropriation, only for grants to local units of government for the development of public recreation facilities pursuant to the same procedures of the board and guidelines as apply under section 1907.” (MCL 324.1911)

1. Consideration should be given for park infrastructure such as parking lots or signage which are important, but have limited direct recreation value.

Response: It is the intent for the program to allow for those types of projects. To clarify we have changed definition to include infrastructure. “...facilities and infrastructure needed to support public recreation activity.”

2. Please consider including permanent easements as another alternative which would meet this project eligibility requirement. Permanent easements could provide long term control of the project site. Linear Parks, such as corridors which support non-motorized trails, are frequently composed of easements where communities have the right to construct, operate and maintain a trail on property owned by someone else. It gives the community the rights they need at a lower cost than a fee simple purchase.

Response: It is the intent of the program to allow for perpetual easements. To clarify we have changed the text to read, “The applicant must own, have a perpetual easement or lease the project site.”

2. (a) Allegan County Parks has four facilities that include leased land from the State of Michigan. The State's policy is to lease the land for no longer than 25-year terms. However, the leases are renewable. These terms are good enough for the Trust Fund program but fall short of the 30-year requirement included in this draft proposal for the LPRFF program. Can this be changed to 25-years rather than 30?

Response: It is not the intent to restrict communities’ ability to lease from the state. The requirement has been changed to allow for 25 year leases.

2. (a) Change language to clarify that the requirement is for leases to be for the required for the future time frame and that the actual lease itself is not required to have been in place for 30 years.

Response: It is the intent of the program to assure that funded facilities are available for public use for their expected lifetime. The text has changed to clarify this, “Leased sites with a term of less than 25 years beyond the application date are not eligible to receive LPRFF assistance.”

2. (a) 30 years from date of application for grant? What if in year 25 of 30 year lease?

Response: Previous response clarifies the issue.

2. (a) 30-year lease period (*Can there be some backdoor or alternative provision for leases with other governmental agencies or school districts? i.e.: US Army Corps of Engineers in Sault Ste. Marie has been using 25 year increments in lease to City for certain parklands (or portions of parks) owned by Corps*)

Response: The change in required lease term should address this issue.

2. (b) Not all lease agreements with early termination clauses should be ineligible. Reword to say “early termination without cause.”

Response: The intent is to make sure that grants are not used to fund facilities that will then move to private use. However it is conceivable that there are circumstances where it would be acceptable to terminate a lease. Language is changed to: “Sites with lease agreements that allow for early termination of the agreement without cause are not eligible.”

2. (b) Item 2b specifically states that if there is a clause allowing early termination of the lease the site would not be eligible. Again, this is standard language that is included in all leases involving State of Michigan lands. Can this somehow be altered to give consideration to the parties involved in the lease? I am guessing that this language is included to protect lands/projects that involve private entities. I think it is safe to assume that such a land lease agreement between a local unit of government and the State of Michigan is less likely to be terminated early than one involving a local unit and some other private party

Response: Previous response should address the issue.

4. ADA requirements. *We assume the ADA requirements would only apply to the portion of the park, or the specific park projects to be funded rather than the entire park. Is this correct?*

Response: The intent is to ensure that facilities that we fund will be ADA compliant. Facilities that are not funded will not be affected. The language is changed to clarify, “The grantee must, at a minimum, design and maintain the facilities subject to the application in compliance with the Americans with Disabilities Act of 1990. Facilities that are designed for universal accessibility are strongly encouraged.”

6. Entrance sign – Open to all users. *As this is a standard requirement for DNR grants, is there a reason we would emphasize this provision for these funded projects differently from other DNR park grant programs?*

Response: This requirement is generally present in other DNRE grants; however, it is also specified in other grants. It should also be specified in this grant.

6. Requiring an entrance sign doesn't make much sense in the context of many urban trails. They are open to the public by design and they don't often have an entrance.

Response: There should be a sign somewhere explaining that facilities that we fund for the public are public amenities for people to use. Trails generally have points where the public may enter; signs should be at these points.

7. Grant funding sign? *Is this a permanent sign?*

Response: The sign should be displayed for the useful life of the project. Language has been changed to clarify, "Funded projects must post a grant funding sign on the project site in a prominent location for the life of the facility. Signs will be provided by the Recreation Passport program."

8. Ineligible projects should include facilities that are closed for lack of attendance or costs that are not covered by fees

Response: Rational and need for the project, as well as maintenance and funding of the current system are all factors in determining how the projects scores relative to other projects. If the project is not needed due to lack of demand or maintenance it should be apparent by the score it receives.

8. (a) Ineligible projects. Facilities-stadiums for viewing professional or semi-professional art, athletic, etc. *What about a situation where a City-owned ice arena is used primarily by the general public for public skating, local skating and hockey groups and also for a semi-professional hockey team? Will the occasional use by the hockey team rule out any improvements to the building? We hope not.*

Response: This is a standard ineligibility for LWCF and MNRTF. The primary purpose is to prevent the funding of entertainment venues that offer token or minimal access for public recreation opportunities and to avoid using grant funds to subsidize semi-private ventures. However the Department understands that there may be some facilities that have a primary purpose of serving the public, but also allow for other uses of the facilities; this is modified to, "Facilities and/or stadiums utilized primarily for the viewing of professional or semi-professional art, athletics, or intercollegiate or interscholastic sports. Facilities that are used for viewing of professional or semi-professional art, athletics, or intercollegiate or interscholastic sports but whose primary purpose is the active recreational use by the general public for at least 75% of normal operation hours are allowed."

Application Requirements and Guidelines

1. The maximum grant of \$100,000 is very limiting for typical park construction projects. A small play lot we completed last year was \$180,000, while most are closer to \$300,000. If you want the money to actually be able to develop an entire park, it should be higher, even if it means fewer projects.

Response: Annual funding levels have not been determined due to the uncertainty of the level of funding that will come from the Recreation Passport. It is possible funding levels may be very limited. We have not changed the grant size but after there is a clearer idea of funding levels the Department could change the maximum grant amount.

2. I would request that the committee simply require documentation of the *availability* of local matching funds to the applicant for 2011 versus *when* in 2011 they are spent.

Example: We have received roughly \$7000 in recreation funds for two capital outlay projects the completion of these projects will point us in the direction of future repairs (Phase I). These two projects are scheduled for January. Can these repairs be completed with the local (matching funds) prior to the April 1 deadline for this grant? We then would request the additional 75% from this grant to complete a third project deemed necessary by our engineers' findings?

Response: All matching funds should be funds that have not been spent prior to the finalization of the grant agreement. Add language, "No dollars spent, materials used, land repurposed, or labor or services utilized prior to the signing of the grant agreement may be used as part of the applicant's match."

2. (a) Can use matched with MNRTF development grant money? What about private foundation money? Is that considered as part of "cash outlay"?

Response: Private foundation money is covered under, "Cash donations from non-governmental entities". We believe that we should not restrict utilization of other grant monies.

2. (b) We would like to use the cost of design and planning towards the match requirement.

Response: Eligible matching funds are only for costs incurred after the finalization of the grant agreement; therefore this may be an ineligible cost. However, the engineering costs associated with the project could be used as an eligible match as it is directly associated with construction.

2. (e) How do you value repurposed abandoned property? Is it possible? Maybe this could be moved to the criteria (reward with points) instead.

Response: The Department is interested in maintaining a wide array of ways for communities to meet their local match requirements, particularly given their current fiscal difficulties. To help address concerns, language is changed to: “The value of land or facilities repurposed for public recreation as part of the project. Land purchased using money from Michigan Natural Resources Trust Fund or Land and Water Conservation Fund may not be counted towards the local match. Land currently in the park system may not be used as match. Land repurposed for public recreation includes but is not limited to private or unused greenspace, commercial lands or facilities, and tax reverted lands or facilities. Any such land or facilities will be valued at twice SEV.”

2. (e) Please consider adding a definition of “land repurposed for public recreation” which might add information that could help an applicant determine if their project area qualified under this classification.

Response: The previous response addresses this comment.

2. (e) Is this compatible with the ineligibility of acquisitions?

Response: The program does not pay for acquisition of land or facilities; it only allows communities that make those acquisitions to use them as a source of matching funds.

4. How is “adequate opportunity to review and comment” defined? A public hearing?

Response: The intent is not to regulate the specific manner via which the application is discussed. To clarify language is changed to: “The applicant is responsible for providing the public adequate opportunity to review and comment on the proposed application. Dedicated public hearings are not required; however, the application must be an agenda item open to discussion by the general public in the normal public meetings of the local unit.”

7. How do you define acceptable standards?

Response: Acceptable standards are those that must be followed normally in construction projects. Clarify by changing language to: “..... all construction has been completed according to acceptable standards as determined by Michigan Building Code rules.....”

8. Are the standards used by the DNRE available?

Response: Due to the wide array of possible projects it would be better for the community to communicate the expected life of the facilities that they want funded. Language is changed to, “Funded facility must be open and usable for the “useful life of the project,” the term of which will be stipulated by the applicant in the grant application and in the subsequent grant agreement.”

9. Each application should include a budget with a breakdown of what they estimate the requested funds will be used for. If they're requesting \$1,000, then they need to tell you how they plan to spend that \$1,000 AND it needs to add up properly.

Response: Providing an expected budget would assist in ensuring that funds are being properly spent. A requirement was added, "Expected project budget, including items on which grant money will be spent."

9. (f) The capital Improvement budget requirement is excessive. A typical community is not likely to formally budget a project until it is known whether the DNR (or whatever grant agency) has indicated they will be participating. This question should be addressed by a requirement for a Resolution from the community's legislative body that obligates the community to the provision of the local match **IF** the project is funded by the DNR.

Response: Clarify by changing language to, "Current, approved annual capital improvement plan that includes the project". Annual capital improvement plans do not require the local unit to undertake the project, but show intent.

Grant Process

2. The due date of April 1st puts a heavy work load on limited grant writing staff at communities who would also be putting together Trust Fund and LAWCF grants together at the same time. PLEASE consider having a September or October due date to lighten our load and allow us to give adequate preparation time to multiple grant applications throughout the year.

Response: The schedule established will save money for the department by reducing the number of road miles utilized for grant staff site visits. It was also emphasized that one deadline for all recreation grants would mean that communities would not get confused about which grants are due on different days.

4. Dollars should be allocated according to population since it is individual tax payers fronting the bill. So if a county contributes the money, they should get all of it back in the form of block grants to be divided up by the respective grant applicants in that county.

Response: Due to the role of the Secretary of State, the department may not be able to require this information. Additionally, in the case that there is a small amount of money available, the amounts that some counties would receive could be so small as to be nearly useless.

6. Can we see a draft agreement?

Response: Draft agreements are expected to be similar to MNRTF development agreements. A boilerplate agreement should be made accessible at the time of the grant opportunity announcement.

8. I'm not sure if this is where you want to specify this, but you may want to specify that reimbursements can only be submitted once a year, once a month, or what ever you determine is appropriate. I know with our grants we had some people who only wanted to submit once for each project...that was NOT a good idea. More frequently is better. Some grants also specify that you can only request funds that equal a certain percentage of the total grant at one time.

Response: To minimize confusion on multiple processes, this grant will follow the same reimbursement process as Michigan Natural Resources Trust Fund grants. Language is added, "Reimbursements will follow the same process as MNRTF reimbursements."

8. A reimbursement process for higher grant amounts can be burdensome on the applicant. We would like to see some commitment on turnaround time or some payment flexibility.

Response: Turnaround time on reimbursements depends on both the applicant's fulfillment of reimbursement requirements and the availability of Department staff. The Department will attempt to process reimbursements as soon as possible.

8. Reimbursement is difficult the higher one goes into the grant amount. If the MDNRE doesn't commit to a short turn-around time, the agency, whether it is a municipal unit or a non-profit supporting the municipal unit, sits in debt waiting for reimbursement.

Response: Previous response addresses this issue.

Scoring Criteria

Needs to take into consideration urban parks: This sounds like it is designed for rural recreation facilities, not taking into consideration urban parks and recreation sites that are less likely to be set aside as forested walking environments. It needs more points/consideration given to urban parks which mainly serve as recreation sites (playscapes, soccer, baseball, ice skating, etc) with walking/biking paths intertwined through.

Response: It would be possible to add points for specific types of recreational opportunities or for urban areas but it is felt that at the current time that it should not be weighted to any particular activity or any particular area. The criteria are intended to be as unbiased as possible.

The focus seems to be on outdoor spaces, not balanced between indoor & outdoor facilities. If I managed indoor facilities, I wouldn't be feel particularly encouraged to apply. (I know our coalition's focus is on greenways; but, given our harsh winters, modern, accessible (physically & financially), engaging indoor recreation spaces are also important.)

Response: Where appropriate references to parks have been changed to “parks or facilities”. The points, as currently apportioned, should be accessible to both indoor and outdoor facilities.

1. (a) Need for Project- sufficient or insufficient to meet the service population’s needs.
How will this be assessed or measured?

Response: It is the role of the applicant to explain in their project narrative how their project meets this criterion. Language has been changed to clarify, “The project narrative explains how the proposed project addresses one of these deficiencies.”

1. (b) Applicant is unlikely to have financial means to accomplish project -
How will this be assessed or measured? Possibly use MSHDA income scores for communities?

Response: This comment is addressed in the previous response.

1. (b) There is not sufficient scoring emphasis to encourage renovation or major repairs.

Response: One of the main purposes of this program is to assist communities in renovating their current facilities. To address this concern we have changed the maximum points received in this category to 20. This would make it 20 of 200 possible points.

2. Site quality. *I would suggest that much of the criteria listed in this section could be replaced by a reference to whether or not the community has formally adopted a Master Plan pursuant to P.A. 33 of 2008 “Michigan Planning Enabling Act.”*

This act codified four different states acts addressing planning for cities and villages, townships, counties and regions – some of which were originally enacted in the early 1900s. These are the mainstays of all local community development, and integrate all features of a community – population growth, needs for transportation, housing, recreation, trails, commercial, industrial, public buildings, downtown development, etc. and controls both the formal adoption process as well as the specific requirements that must be addressed in the plan. The process requires careful community development and compatibility of uses that reflect the community’s goals for the future. Extensive notice and public hearings are required by the Act and adoption by the local Planning Commissions as well as final approval or agreement by the local elected bodies.

If a specific park is identified and articulated in an approved Master Plan, that should be prima facie evidence that the community has done its due diligence and documentation on the park facility and its needs.

The inclusion of the park and its development needs or plans in a Master Plan should be clear evidence that the various location issues have been addressed, and that the

community has determined that “the park location is appropriate for the proposed development.”

Response: One of the goals of this grant is to have a more simple application process than MNRTF. If local communities are required to open up and amend their master plans to be eligible for as much as 25% of their project points, then the process would become much more burdensome.

2. (a) We would like to see points awarded for sites that are accessible via public transit and non-motorized facilities (e.g. bike lanes and trails.)

Response: The Department wants to encourage alternate forms of transportation, particularly transportation that helps people to become active outdoors. To reflect this we have added, “Site’s accessibility to public and non-motorized transportation,” to the list of considerations.

2. (a)&(c) The project site points must consider an urban projects where the natural resources may be less relevant, especially if the facilities are indoors.

Response: Item 2 is not stating that having natural resources at the site will give the project more points and projects without will receive less. It is rewarding the appropriate use of a variety of sites. Therefore, a facility in an urban area would not be penalized for being in an urban area, but putting a building in the middle of a rare habitat would receive a penalty. Renovation of a building in a highly urbanized area may be entirely appropriate for the natural resources of that site.

2. (d) Needs to be specific as possible to assist individuals unfamiliar with the idea of accessibility as separate from ADA.

Response: The Department will publish example activities that the State takes in State Parks to reach universal accessibility.

2. (d) Uniform Federal Accessibility Standards are similar to ADA.

Response: This is an accurate critique. Extensive searching has found no other “standard” that can be applied. The criteria is changed to, “The grantee demonstrates that the project is designed at standards exceeding the 2010 ADA standards. The application will provide examples of universal accessibility designs that exceed ADA standards”

3. (e) Projects should be required to utilize sustainable design or get more points for it.

Response: Sustainable design should be encouraged but the primary purpose of the program is the development and repair of public recreation facilities and not an energy efficiency grant. Current points for sustainable design will make up 5% of the total points.

3. (e) How is criteria filled? If a project has one sustainable feature (porous parking) are points received?

Response: In relation to sustainable design, the points should not be formulaic as some projects will allow for more sustainable design features than others. However we have changed the point award structure. The new structure should allow for zero, full, or half points for most categories. This would help to minimize the occurrence of ties in the rankings.

10. (d) vii. Typical linear urban trails should be given additional points for connecting with private property as appropriate, not less.

Response: There is no intent to penalize urban trails that connect to private property. The criteria has been changed to, “Physical layout clearly defines the property lines and distinguishes, and if appropriate for the development, separates private spaces from public spaces using landscape plantings, pavement designs, and fencing.”

11. (c) My only concern is that I don’t feel it is right to penalize a community that has received recreation grant assistance in the last 5 years. Cities that have aggressively tried to meet their community recreational needs, and needed DNRE assistance to do so, should not have a significant disadvantage over communities that have the money to meet their needs or are not actively working on recreation projects.

Response: A five year average does not confer a long term penalty. This is designed to ensure that the money generated by the passport benefits all the people of Michigan and not focus it into communities that have developed expertise in grant applications.

12. Consider incorporating the 14 planning regions into a tie-breaker to assure a regional balance.

Response: It is not clear how this could be achieved in a simple and equitable fashion. It is hoped that the applicant history criteria will help to achieve a regional balance.
